

ACLU-WI Opposes Assembly Bill 320

While “fines and fees” are often spoken of in conjunction with one another, they are separate and distinct. Fines are ostensibly imposed as a punishment for violating the law, while fees exist solely to generate revenue. Over the past three decades, the number and amount of fees and surcharges imposed by the criminal legal system has grown exponentially, as states and local governments have chosen to become reliant on them to fund growing systems of policing, surveillance, and incarceration.

Fees exist at every stage of the justice system—booking fees, pretrial supervision fees, diversion program fees, “pay-to-stay” fees,¹ fees for medical care,² phone calls³ and more during incarceration, supervision fees, among countless others. Almost everyone contacting the system is required to pay fees, from people cited for a minor traffic violation or charged with low-level misdemeanor, to those charged with more serious felonies — who typically spend years in prison without the ability to earn a living, only to reenter their communities trapped in insurmountable debt.

As the co-sponsorship memo for this bill notes, the average price of a Big Mac has increased 343.7% since 1985; the average price of a used car has increased 413.7%. It is also the case that the number of Wisconsin courts’ fees, costs, and surcharges and their cumulative amounts have increased significantly over time.⁴ The fees and surcharges imposed on top of a typical \$50 forfeiture increased from \$26 in 1984 to \$150.50 currently (a 479% increase). The fees and surcharges issued on top of a typical \$100 misdemeanor fine increased from \$52 in 1984 to \$479 currently (an 821% increase). Under the bill, fees in circuit court forfeiture actions and criminal cases are increased further in addition to being indexed to inflation.

Fees in municipal court actions are also increased and indexed to inflation. While municipal courts in Wisconsin do not enforce criminal penalties, they have gone so far as to order the arrest and jailing of people who fail to pay their municipal tickets or fall behind on their payments, in addition to other debt-based sanctions such as issuing a driver’s license suspension.⁵ The issuance of these types of sanctions creates a two-tiered system of punishment: one for those with financial means and one for those without. It’s expensive to be poor, and fees and surcharges added on to fines or forfeitures are a hidden regressive tax that can force hard-working people living paycheck to paycheck into a vicious cycle of debt and punishment.

¹ Will Maher, “Poverty Fact Sheet: Pay-to-Stay Jail Fees in Wisconsin,” Institute for Research on Poverty (2017-2018), <https://www.irp.wisc.edu/wp/wp-content/uploads/2018/10/Factsheet15-Pay-to-Stay-Jail-Fees-in-WI.pdf>; Izabela Zaluska, “Pay-to-stay, other fees, can put jail inmates hundreds or thousands in debt,” Wisconsin Watch (Sept. 15, 2019), <https://wisconsinwatch.org/2019/09/pay-to-stay/>.

² Jonah Beleckis, “Perpetuating poverty: Formerly incarcerated people warn of ‘agonizing’ choices around Wisconsin’s prison copays,” WPR (June 8, 2022), <https://www.wpr.org/justice/perpetuating-poverty-formerly-incarcerated-people-warn-agonizing-choices-around-wisconsins-prison>.

³ Wanda Bertram, New data: Wisconsin jails and telecom giants profiting from high phone rates that keep families apart, Prison Policy Initiative (Sept. 10, 2021), <https://www.prisonpolicy.org/blog/2021/09/10/wisconsin-phones/>.

⁴ “Legal Financial Obligations in Wisconsin,” Wisconsin Director of State Courts Office & National Center for State Courts (Dec. 2018), <https://www.wicourts.gov/publications/reports/docs/studylegalfinobligation.pdf>.

⁵ Dr. Emma Shakeshaft, “Failure to Pay: The Use of Debt-Based Carceral Sanctions and Warrants in Wisconsin’s Municipal Courts,” ACLU of Wisconsin (Nov. 2024), <https://www.aclu-wi.org/app/uploads/2024/11/2024.11.21-wi-finesfees-web.pdf>.

In addition to the human costs, criminal legal system fees are an inefficient and unreliable source of revenue. Research has shown the cost of collecting fees consumes nearly 100 times as many taxpayer dollars as collecting revenue through taxation.⁶ It is certainly the case that jailing Wisconsinites for non-criminal municipal court debt is not an efficient way to generate revenue.

⁶ <https://www.brennancenter.org/our-work/research-reports/steep-costs-criminal-justice-fees-and-fines>